OFFICE OF THE TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

FORMAL COMPLAINT OF STATUTORY NON-COMPLIANCE

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Date: June 2026

Submitted To: Treasury Inspector General for Tax Administration (TIGTA)

Subject: IRS Interim Guidance HCO-06-0525-0001 — Potential Violation of the Telework Enhancement Act of 2010 (5 U.S.C. Chapter 65)

Reference Documents: IG HCO-06-0525-0001 (June 23, 2025); IRM 6.800.2 (November 2023); 5 U.S.C. Chapter 65

I. NATURE OF COMPLAINT

This complaint requests that TIGTA investigate whether Interim Guidance Memorandum HCO-06-0525-0001, issued by the IRS Human Capital Office on June 23, 2025, violates the Telework Enhancement Act of 2010 (the Act), codified at 5 U.S.C. Chapter 65. Specifically, the Interim Guidance (IG) implements a near-total prohibition on telework through executive directives that conflict with the statutory mandate Congress enacted, which remains in full force and has not been amended or repealed.

II. STATUTORY FRAMEWORK

The Telework Enhancement Act of 2010 imposes the following mandatory requirements on federal executive agencies, including the IRS:

- Agencies must establish policies under which eligible employees are authorized to telework “to the maximum extent possible without diminishing the performance of the employee or the agency” (5 U.S.C. § 6502(a)).
- The head of each agency must provide written notification to each employee of the employee’s eligibility or ineligibility to participate in telework, with written reasons for any ineligibility determination (5 U.S.C. § 6502(b)(2)).
- Agencies must incorporate telework into their Continuity of Operations Plans (COOP) (5 U.S.C. § 6504(a)).

- OPM must issue guidance and report annually to Congress on agency telework participation (5 U.S.C. § 6504(b)).

The IRS implemented these requirements through IRM 6.800.2, which as of November 2023 stated the program objective was to expand telework broadly and equitably and that telework should be offered to employees whose duties are well suited for completion at an alternate worksite. IRM 6.800.2 remains the operative IRS policy document. The IG itself acknowledges this, stating its provisions will be incorporated into IRM 6.800.2 no later than two years from issuance — confirming the IRM, not the IG, is the controlling long-term authority.

III. IDENTIFIED STATUTORY CONFLICTS

Conflict 1 — Blanket Cancellation of Telework Agreements Without Individualized Review

The IG states: “All pre-existing remote work, frequent and recurring telework agreements are cancelled effective March 8, 2025.” (IG, Policy Changes, Section 1(a))

The Act requires each agency head to provide written notification to each individual employee of their eligibility determination with specific documented reasons (5 U.S.C. § 6502(b)(2)). IRM 6.800.2.2.8(7) further requires managers to provide a written explanation to the employee within 20 business days for each denial and upload all denials to the Telework Denial Library. A single servicewide memorandum cancelling all agreements does not constitute the individualized written notification the statute requires.

Conflict 2 — Five-Instance Annual Cap on Ad Hoc Telework

The IG states: “Employees are permitted to Ad Hoc telework five instances in a calendar year.” (IG, Section 1(c))

The Act’s mandate to authorize telework “to the maximum extent possible without diminishing the performance of the employee or the agency” (5 U.S.C. § 6502(a)) is irreconcilable with a hard annual cap of five days for employees in positions with fully portable duties. The IRM’s directive that telework be offered broadly and equitably cannot coexist with a five-day annual ceiling.

Conflict 3 — Categorical Prohibition on Routine Telework

The IG states: “Employees are prohibited from routine telework.” (IG, Section 1(b))

The 2010 Act does not authorize agencies to categorically prohibit routine telework for eligible employees. IRM 6.800.2.2.6 defines Recurring and Frequent telework as established program categories. The IG eliminates both without statutory authority to do so.

Conflict 4 — Improper Authority Hierarchy

The IG lists 5 U.S.C. Chapter 65 as its first source of authority, then relies on a Presidential Memorandum and Treasury directives to implement provisions that directly conflict with that statute. Presidential memoranda and agency directives are subordinate to Acts of Congress. Where the IG conflicts with 5 U.S.C. Chapter 65, the statute controls. Citing the Act as authority while violating its core mandate does not cure the legal conflict.

Conflict 5 — Continuity of Operations Readiness

The Act requires COOP integration (5 U.S.C. § 6504(a)). IRM 6.800.2.5.4 requires employees in portable positions to maintain approved telework agreements for emergency activation. The mass cancellation of all telework agreements structurally undermines the COOP readiness the statute mandates, even while the IG preserves a nominal exception for mission-essential functions.

Issue	Statutory Requirement	IG Provision	Risk
Blanket Agreement Cancellation	Written notification required per employee (5 U.S.C. § 6502(b)(2))	Single memo cancelled all agreements servicewide	**HIGH**
5-Day Annual Cap	Maximum extent possible (5 U.S.C. § 6502(a))	Hard cap of 5 Ad Hoc instances per year	**HIGH**
Routine Telework Prohibition	Eligible employees authorized to telework	Routine telework expressly prohibited	**HIGH**
Authority Hierarchy	Statute supersedes executive directives	Pres. Memo used to implement provisions conflicting with statute	**MEDIUM-HIGH**
COOP Readiness	Telework integrated into COOP (5 U.S.C. § 6504(a))	Infrastructure dismantled by mass cancellation	**MEDIUM**

IV. PRESERVED PROVISIONS

The following IG provisions appear consistent with legal requirements and are noted for completeness:

- Pre-existing approved Reasonable Accommodations are expressly preserved (IG Section 2(h)).
- Settlement agreement and court/arbitrator-directed telework is preserved (IG Section 2(j)).
- Military spouse exemptions are maintained per OPM guidance (IG Section 2(i)).
- Telework training and agreement requirements remain in effect.

V. REQUESTED INVESTIGATIVE ACTIONS

The complainant respectfully requests that TIGTA:

1. Investigate whether IG HCO-06-0525-0001 violates the Telework Enhancement Act of 2010, specifically the “maximum extent possible” standard at 5 U.S.C. § 6502(a).
2. Determine whether the mass cancellation of all telework agreements complied with the individualized written notification requirements of 5 U.S.C. § 6502(b)(2) and IRM 6.800.2.2.8(7).
3. Assess whether the Telework Denial Library was properly populated with individualized denial documentation following the mass cancellation, or whether it remains unpopulated in violation of IRM requirements.
4. Evaluate the impact of the IG on IRS COOP telework readiness as required by 5 U.S.C. § 6504(a) and IRM 6.800.2.5.4.
5. Issue findings and refer any identified statutory violations to appropriate oversight authorities including OPM and the Department of Justice, as warranted.

VI. CONCLUSION

The Telework Enhancement Act of 2010 is an Act of Congress that remains in full force and has not been amended or repealed. IG HCO-06-0525-0001 implements return-to-office requirements through executive direction that conflicts with the statute in at least five documented respects. TIGTA’s independent investigation is warranted to ensure the IRS is operating within statutory bounds and to protect the rights of the affected federal workforce.

Respectfully submitted,

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[Complainant Name]

[Title / Bargaining Unit Status]

[IRS Business Unit / Location]

[Phone / Email]

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